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EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 13th March, 2020:—

I

BILL NO. VI OF 2020

A Bill to provide for the regulation of animal factory farming industry in India and for matters connected therewith and incidental thereto.

BE it enacted by the Parliament of India in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Animal Factory Farming (Regulation) Act, 2020.

Short title and extent.

(2) It extends to the whole of India.

2. (1) Save as otherwise provided in this Act it shall apply to—

Application of the Act to ventures of animal factory farming.

(i) ventures involved in production through animal factory farming registered with the appropriate Government and operating within the territory of India; and

(ii) animal factory farming carried out by the State.

(2) Notwithstanding anything contained in sub-section (1), the Act shall apply to the animal factory farming by ventures not present within the territory of India, only if such production is,—

(a) in connection with any business carried on in India, or any systematic activity of offering goods or services related to animal factory farming within the territory of India; or

(b) in inconnection with any activity which involves use and rearing of animals for animal factory farming with the territory of India.

Definitions.

3. (1) In this Act, unless the context otherwise requires,—

(i) "adjudicating Officer" means an officer of the adjudication wing under section 18;

(ii) "appropriate Government" means in use of a state, the Government of that State and in other cases, the Central Government;

(2) "Board" means Animal Factory Farming Regulatory Board of India established under section 12;

(3) "individual" means—

(i) an individual, or

(ii) a Hindu undivided family, or

(iii) a company, or

(iv) a firm, or

(v) an association of persons or a body of individuals, whether incorporated or not, or

(vi) the State, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(4) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(5) "prescribed" means prescribed by rules made under this Act;

(6) "specified" means specified by regulations made by the Board under this Act and the term "specify" shall be construed accordingly;

(7) "State" shall, unless the context otherwise requires, have the same meaning assigned to it under article 12 of the Constitution;

(8) "venture" means any company as defined in section 2 of the Companies Act, 2013 18 of 2013 or any co-operative society as defined in, section 2 of the National Cooperative Development Corporation of India Act, 1962 or any organisation involved in animal factory farming or any individual with charge of animals and involved in production through animal factory farming. 26 of 1962

CHAPTER II

OBLIGATION OF VENTURES

Limitations
on use of
antibiotics.

4. Every venture shall phase out the use of harmful antibiotics as may be specified and shall use only such antibiotics as may be specified.

Limits on
transportation.

5. Every venture shall ensure that transport of animal farming products as carried out in such manner as may be specified.

- 59 of 1960. **6.** Every venture shall carryout its production without contravening the provisions under Chapter III of the Prevention of Cruelty to Animals Act, 1960. Prohibition of cruelty on animals.

CHAPTER III

ACCOUNTABILITY AND TRANSPARENCY MEASURES

- 7.** (1) Every venture shall be responsible for complying with all obligations set out in this Act in respect of any production undertaken by it or on its behalf. Accountability.

(2) Every ventures shall be required to demonstrate that any production undertaken by it or on its behalf is in accordance with the provisions of this Act.

- 8.** (1) Where any venture intends to undertake any production involving new technologies or large scale production in animal factory farming, or any other production which carries a risk of significant harm to consumers, it shall not be commenced unless the venture has undertaken a consumer health impact assessment in such manner as may be prescribed. Consumer health impact assessment.

(2) The Board may, in addition, specify those circumstances, or classes of ventures, or production operations where such consumer health impact assessment shall be mandatory, and may also specify those instances where an auditor under this Act shall be engaged by a venture to undertake a consumer health impact assessment.

(3) Without prejudice to the generality of the provision of sub-section (1), the consumer health impact assessment shall include,—

(i) detailed description of the proposed production operation, the purpose of production and the nature of antibiotics and medicines being used;

(ii) assessment of the potential harm that may be caused to the health of the intended consumers; and

(iii) measures for managing, minimising, mitigating or removing such risk or harm.

(4) Upon completion of the consumer health impact assessment, the venture shall submit the same to the Board in such manner as may be specified.

(5) On receipt of the assessment, if the Board has reason to believe that the production is likely to cause harm to the consumers, the Board may direct the venture to cease such production or direct that such production shall be subject to such conditions as may be specified.

- 9.** (1) The policies and the conduct of production of a venture shall be audited annually by an independent auditor registered under this Act. Audit.

(2) The auditor shall evaluate the compliance of the venture with the provisions of this Act.

(3) The Board shall specify the form, manner and procedure for conducting audits under this section including any civil penalties on auditors for negligence.

(4) The Board shall register persons with expertise in the area of biotechnology, medicine, or veterinary with such qualifications, experience and eligibility having regard to factors such as independence, integrity and ability, as it may specify, as auditors under this Act.

- 10.** The venture shall appoint a Factory Farming Officer for carrying out the following functions,— Factory Farming Officer.

(i) providing information and advice to the venture on matters relating to fulfilling its obligations under this Act;

(ii) monitoring production activities of the venture to ensure that such production does not violate the provisions of this Act;

(iii) providing advice to the venture where required on the manner in which consumer health impact assessments is carried out, and carry out the review of such assessment;

(iv) providing advice to the venture, where required, on the manner in which internal mechanisms may be developed in order to satisfy the duties set out under the Act;

(v) providing assistance to and cooperating with the Board on matters of compliance of the ventures with provisions under this Act; and

(vi) maintaining an inventory of all records maintained by the venture.

CHAPTER IV

DUTIES OF VENTURES

Duties of ventures.

11. (1) The duties of every venture shall include but not be limited to—

(i) Undertaking measures to reduce greenhouse gas emissions generated by livestock engaged in factory farming;

(ii) taking appropriate measures for animal welfare;

(iii) minimizing the threat of food contamination and foodborne illnesses as a result of its activities;

(iv) ensuring proper working conditions and minimising operational risks, which may involve worker injuries and reputational risk, as well as risk of contamination of food product by sick workers;

(v) minimizing the use of drug resistant antibiotics;

(vi) undertaking measures to reduce consumption of large quantities of water both directly and indirectly via purchase of animal feed; and

(vii) reduction in waste and water pollution from its activities;

CHAPTER V

ANIMAL FACTORY FARMING REGULATORY BOARD OF INDIA

Establishment and incorporation of Board.

12. (1) **The Central Government shall, by notification, establish for the purposes of this Act, a Board to be called the Animal Factory Farming Regulatory Board of India.**

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both moveable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at such place as may be prescribed.

(4) The Board may, with the prior approval of the Central Government, establish its offices at other places in India.

Constitution of the Board.

13. (1) **The Board shall consist of the following members, namely:—**

(a) **the Secretary, Department of Animal Husbandry and Dairying, Ministry of Fisheries, Animal Husbandry and Dairying;**

(b) **one member representing the National Cooperative Development Corporation, to be nominated by the National Cooperative Development Corporation;**

(c) one member each representing the Ministry of Health and Family Welfare Ministry of AYUSH, and Ministry of Science and Technology, to be nominated by the respective Ministries;

(d) two members representing the civil society who, in the opinion of the Central Government, are or have been actively engaged in animal welfare, biotechnology, and animal rights, to be nominated by the Central Government;

(e) one person representing the Veterinary Council of India to be nominated by the Veterinary Council of India;

(f) two persons representing practitioners of modern and indigenous systems of medicine, to be nominated by the Central Government;

(g) two persons from co-operative society, to be nominated by the Central Government on the recommendation of the state Governments; and

(h) three Members of Parliament, one to be elected by the Council of States (Rajya Sabha) and two by the House of the People (Lok Sabha).

(2) The Chairperson of the Board shall be Secretary, Department of Animal Husbandary and Dairying, Ministry of Fisheries, AH & Dairying.

(3) The Chairperson and Members shall be entitled to such salary and allowances, as may be prescribed.

14. The term for which the Board so constituted under section 12 shall be three years and the Chairperson and other Members of the Board shall hold office till the expiry of the term for which the Board has been so constituted.

Term of office and conditions of service of the Chairperson and the Members of the Board.

15. The Chairperson shall have powers of general superintendence and direction of the affairs of the Board and shall also exercise all powers and do all such acts and things which may be exercised or done by the Board under the Act.

Powers of the Chairperson.

16. (1) The Chairperson and members of the Board shall meet at such times and places and shall observe such rules and procedures in regard to transaction of business at its meetings including quorum at such meetings, as may be prescribed.

Meetings of the Board.

(2) If, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the member presiding, shall have a casting or a second vote.

(4) Any member who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board shall disclose the nature of his interest at such meeting, which shall be recorded in the proceedings of the Board and such member shall not take part in any deliberation or decision of the Board with respect to that matter.

17. (1) It shall be the duty of the Board to regulate the animal factory farming, prevent any misuse of harmful chemicals in animal factory farming, ensure compliance with the provisions of this Act, and promote awareness in animal factory farming.

Powers and Functions of the Board.

(2) Without prejudice to the generality of the foregoing and other functions set out under this Act, the functions of the Board shall include—

(a) monitoring and enforcing application of the provisions of this Act;

- (b) specifying the list and quantity of chemicals, antibiotics, and other medicines to be used in animal factory farming;
- (c) specifying reasonable purposes for which chemicals, antibiotics, and other medicines may be used in animal factory farming;
- (d) measuring and assessing the use of antibiotics in animal factory farming.
- (e) specifying residuary categories of sensitive and high power chemicals, antibiotics, and other medicines used in animal factory farming;
- (f) taking prompt and appropriate action in response to violation of the provisions in accordance with the provisions of this Act.
- (g) specifying the circumstances where antibiotic impact assessment on animal and human health may be required to be undertaken in accordance with the provisions of this act.
- (h) specifying the transport regulation and limits in animal factory farming industry;
- (i) assessing growth in animal demand for cereals and promoting research in development of alternative cereals for animals;
- (j) assessing impact of ventures on environment and its contribution towards global warming;
- (k) specifying rules for use of fresh water and natural resources by the ventures;
- (l) promoting artificial meat and development of research to develop alternatives of meat.
- (m) examining any audit reports submitted by the ventures and taking any action pursuant thereto in accordance with the provisions of this Act;
- (n) issuing a certificate of registration to auditors and renewal, modification, withdrawal, suspension or cancellation thereof and maintaining a database on its website of such registered ventures and specifying the requisite qualifications, code of conduct, practical training and functions to be performed by such ventures;
- (o) issuing codes of practice for ventures and publishing such codes on its website;
- (p) promoting public awareness and understanding of the risks, rules, safeguards and animal rights in animal factory farming, including issuance of any public statement setting out trends in, or specific instances of, contravention of the provisions of this Act by a venture or a class of ventures, as the case may be;
- (q) promoting awareness among ventures of their obligations and duties under this Act;
- (r) monitoring technological developments and commercial practices that may affect animal factory farming;
- (s) promoting measures and undertaking research for innovation in the field of animal factory farming;
- (t) advising appropriate Governments and any regulatory or statutory authority on measures that must be undertaken to promote reforms and research in animal factory farming and ensuring consistency of application and enforcement of this Act;
- (u) developing an yearly investment risk and returns report on the factory farming industry;

(v) issuing guidance on any provision under this Act either on its own or in response to any query received from a venture where the Board considers it necessary, subject always to the provisions of this Act;

(w) advising the Central Government on the acceptance of any relevant international instrument relating to animal factory farming industry;

(x) specifying fees and other charges for carrying out the purposes of this Act;

(y) receiving and handling complaints under the provisions of this Act;

(z) calling for information from, conducting inspections and inquiries into the affairs of ventures in accordance with the provisions of this Act;

(aa) preparing and Publishing reports setting out the result of any inspection or inquiry and any other comments that the Board deems to be in public interest; and

(ab) performing such other functions, including maintaining, updating and submitting any records, documents books, registers or any other data, as may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clause (z) of sub-section (2) of Section 17, the Board shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely,—

(a) the discovery and production of books of account and other documents, at such place and at such time as may be specified;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any book, document, register or record of any venture;

(d) issuing commissions for the examination of witnesses or documents;

(e) any other matter which may be prescribed.

18. (1) Without prejudice to any other provision of this Act and for the purpose of imposing of penalties under section 19, the Board shall have a separate adjudication wing. Appointment of Adjudicating Officer.

(2) The Central Government shall, having regard to the need to ensure the operational segregation, independence, and neutrality of the adjudication wing, prescribe,—

(a) number of Adjudicating Officers;

(b) qualification of Adjudicating Officers;

(c) manner and terms of appointment of Adjudicating Officers ensuring independence of such officers;

(d) jurisdiction of Adjudicating Officers;

(e) procedure for carrying out an adjudication under this Act; and

(f) other such requirements as the Central Government may deem fit.

(3) The Adjudicating Officers shall be persons of ability, integrity and standing, and must have specialised knowledge of, and not less than seven years professional experience in the fields of biotechnology, medicine, veterinary, and related subjects.

CHAPTER VI

OFFENCES AND PENALTIES

19. (1) If any venture contravenes any of the provisions of the Act, it shall be liable to penalty which may extend up to fifty lakh rupees or two per cent of its total worldwide turnover of the preceding financial year, whichever is higher. Penalties.

(2) If any venture, who is required under this Act, or rules prescribed or regulations specified thereunder, to furnish any report, return or information to the Board, fails to furnish the same, then such venture shall be liable to penalty which shall be ten thousand rupees for each day during which such default continues, subject to a maximum of twenty lakh rupees.

(3) Where any person fails to comply with any provision of this Act, or rules prescribed or regulations specified thereunder as applicable to such person, for which no separate penalty has been provided, then such person shall be liable to a penalty subject to a maximum fifty lakh rupees.

CHAPTER VII

MISCELLANEOUS

Power to
make rules.

20. (1) The Central Government shall, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is one of the oldest agrarian economies and has been rearing animals as a part of it. Animal farming initially began at household scales which has now turned into factory farming with the advent of the idea of mass production that came with industrialisation. Animal right organisations are conscious and concerned about the infringement of rights and horrendous cruelty on animals in the animal factory farms. While it would be ideal to allow every farm animal to live in a free-range, natural setting, the goal is unrealistic. There is limited farm and ranch land and the agriculture industry would be put out of business, unable to absorb the increased costs associated with this method of farming. The Bill also seeks to reduce the cruelty on animals in these factories.

Consumers lie at the receiving and final end of the animal factory. Hence, it is important to ensure their consumer rights and safety from any vulnerability caused by the product(s) of animal factory farming to their health. The Bill provides for consumer health impact assessment to ensure the safety of consumers' health from probable diseases. The Bill also seeks to minimise the use of drug resistant antibiotics and other hazardous biotechnological chemicals used in such farming.

Another hazard involved in the animal factory farming is that of climate change. The Bill seeks to limit the greenhouse emissions and putting limits to large scale use of water as to reduce the ecological pressure exerted by the animal factory farms.

Most importantly, the Bill seeks to institutionalise animal factory farming in India, which never came directly under the institutional framework. Thus, the Bill seeks to provide a structural and a functional mechanism to the industry. The institutionalisation of animal factory farming will streamline the process and bring the industry direct under the ambit of prescribed laws.

Hence this Bill.

DR. ABHISHEK MANU SINGHVI

FINANCIAL MEMORANDUM

Clause 12 of the Bill empowers the Central Government, to establish a Board to be called the Animal Factory Farming Regulatory Board of India in order to carry out the purposes of this Bill. Clause 13 provides the constitution of the Board and the salary and allowances of the Chairman and Members. The Bill, therefore, if enacted, would involve an annual recurring expenditure of about fifty crore rupees per annum from the Consolidated Fund of India. No non-recurring expenditure is likely be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The delegation of powers shall relate to matters of details only. Therefore the delegation of legislative power is of normal character.

II

BILL NO. VII OF 2020

*A Bill to provide adequate protection and assistance to victims and witnesses
in criminal cases.*

BE it enacted by Parliament in the Seventy-first year of the Republic of India as follows:—

1. (1) This Act may be called the Victim and Witness Protection and Assistance Act, 2020.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'bodily injury' means—

- (1) a cut, abrasion, bruise, burn, or disfigurement;
- (2) physical pain;
- (3) illness;
- (4) impairment of the function of a bodily member, organ, or mental faculty;
- (5) any other injury to the body, no matter how temporary.

(b) 'law enforcement officer' means an officer or employee of the Government, or a person authorized to act for or on behalf of the Government or serving the Government as an adviser or consultant—

(i) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

(ii) serving as a probation or pretrial services officer under this title;

(c) 'misleading conduct' means—

(i) knowingly making a false statement; or

(ii) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement; or

(iii) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity; or

(iv) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(v) knowingly using a trick, scheme, or device with intent to mislead;

(d) 'official proceeding' means—

(i) a proceeding before a Court of Session, Chief Judicial Magistrate, Chief Metropolitan Magistrate, Judicial Magistrate first class and second class Metropolitan Magistrate or High Court; or

(ii) a proceeding before an investigation or law enforcement agency which is authorized by law;

Order of
restitution.

3. (1) The Court, when sentencing an accused convicted of an offence under Indian Penal Code, 1860 may order, in addition to or in lieu of any other penalty authorized by law, 45 of 1860. that the defendant make restitution to any victim of the offence.

(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

(3) The order may require that such accused—

(a) in the case of an offence resulting in damage to or loss or destruction of property of a victim of the offence—

(i) return the property to the owner of the property or to a person designated by the owner; or

(ii) if return of the property under sub-clause (i) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

(a) the value of the property on the date of the damage, loss, or destruction, or

(b) the value of the property on the date of sentencing, less the value, on as the date the property is returned, of any part of the property that is returned;

(b) in the case of an offence resulting in bodily injury to a victim—

(i) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognised by the law of the place of treatment;

(ii) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(iii) reimburse the victim for income lost by such victim as a result of such offence.

(c) in the case of an offence resulting in bodily injury which results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services, in addition to amount given in clause (b).

(d) in any case, if the victim or if the victim is deceased, the legal heir of the victims consents make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the legal heir.

(4) (a) The Court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the Court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation and such order of restitution shall require that all restitution to victim under such order be made before any restitution to any other person under such order is made.

(b) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in:—

(i) any civil proceeding; and

(ii) any settlement proceeding.

(5) The Court may require that such accused make restitution under this section within a specified period or in specified installments.

(6) If such accused is placed on probation or parole under this title, any restitution ordered under this section shall be a condition of such probation or parole and the court may revoke probation and the Parole Commission may revoke parole if the accused fails to comply with such order:

Provided that in determining whether to revoke probation or parole, the court or Parole Commission shall consider the employment status of the accused earning ability, financial resources, the wilfulness of the accused's failure to pay, and any other special circumstances that may have a bearing on the ability of accused to pay.

(7) An order of restitution may be enforced by the enforcement agency of the government named in the order to receive the restitution in the same manner as a judgement or decree in a civil case.

4. (1) The Court, in determining whether to order restitution under section 3 and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offence, the financial resources of the accused, the financial needs and earning ability of the accused and the accused's dependents, and such other factors as the court deems appropriate.

Procedure for
issuing order
of restitution.

(2) The Court may order the probation service of the court to obtain information pertaining to the factors set forth in sub-section (1) of this section and the probation service of the court shall include the information collected in the report of pre-sentence investigation or in a separate report, as the court directs.

(3) The Court shall disclose to both the accused and the prosecution agency all portions of the pre-sentence or other report pertaining to the matters described in sub-section (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence and the burden of demonstrating the amount of the loss sustained by a victim as a result of the offence shall be on the prosecution agency, the burden of demonstrating the financial resources of the accused and the financial needs of the accused and such accused's dependents shall be on the accused and, the burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

Formulation
of guidelines
for fair
treatment or
crime victims
and witnesses.

5. (1) Within two hundred and sixty days after the date of enactment of this Act, the Central Government shall formulate and implement guidelines consistent with the purposes of this Act.

(2) Without prejudice to the generality of the provision contained in sub-section (1), these guideline shall *inter-alia* contain, that—

(i) Law enforcement personnel shall ensure that victims routinely receive emergency, social and medial services as soon as possible and are given information on the following:

(a) availability of victim compensation, where applicable;

(b) community based victim treatment programs;

(c) the role of the victim in the criminal justice process, including what they may expect from the system as well as what the system expects from them; and

(d) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages may be obtained.

(ii) A victim or witness shall routinely receive information on steps that law enforcement officers and prosecution agency may take to protect victims and witnesses from intimidation.

(iii) All victims and witnesses who have been scheduled to attend criminal justice proceedings shall either be notified as soon as possible of any change in schedule which may affect their appearances or develop a system for alerting witnesses promptly by telephone or through email or otherwise.

(iv) Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims shall if such persons provide the appropriate official with a current address and telephone number or email, receive prompt advance notification of judicial proceedings relating to their case, including —

(a) the arrest of an accused;

(b) the initial appearance of an accused before a judicial magistrate;

(c) the release of the accused pending judicial proceedings; and

(d) proceedings in the prosecution of the accused including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment.

(v) The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, shall be consulted by the prosecution agency in order to obtain the views of the victim or family about the disposition of any state criminal case brought as a result of such crime, including the views of the victim or family about —

(a) dismissal;

(b) release of the accused pending judicial proceedings;

(c) plea bargaining.

(vi) Law enforcement agencies and prosecutor shall promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(vii) Victims and other prosecution witnesses shall be provided prior to court appearance, a waiting area that is separate from all other witnesses.

(viii) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work and a victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or prosecutors for the Government, is subjected to serious financial stain, shall be assisted by such agencies and prosecutors in explaining to creditors the reasons for such serious financial strain.

(ix) Victim and witness's assistance education and training shall be offered to persons taking courses at Government law enforcement training facilities and prosecutors for the Government so that victims and witnesses may be promptly, properly and completely assisted.

(x) may any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims within the premises of the court be provided.

(xi) Public radio, television, multimedia and other publicity medium shall allot sufficient number of the broadcasting hours allocated to information provision are used to promote behavior and measures aimed at education and awareness of protection of victim and witnesses.

(xii) National information campaigns shall also be carried out to encourage the prevention and protection of victim and witnesses and Information about such initiatives may be included on local authority websites.

(xiii) The publicity work may be given to non-government organization having sufficient experience in this field.

(xiv) The implementation agency shall ensure that the guidelines one adhered by all the law enforcement agencies.

6. The Central Government shall, after due appropriation made by parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

7. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Without the cooperation of victims and witnesses, the criminal justice system would cease to function yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

2. All, too often, the victims of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

3. Although the majority of serious crimes falls under the jurisdiction of Session courts, the public prosecutor, has an important role to assume in ensuring that victims of crime, whether at the local, metropolitan or session court level, are given proper treatment by agencies administering the criminal justice system.

4. Under current law, law enforcement and investigating agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victims, as a result of such cooperation, is threatened or intimidated.

5. While the accused is provided with counsel who can explain both the criminal justice process and the rights of the accused, the victim or witness has no counterpart and is usually not even notified when the accused is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

6. The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they are often made to share the pretrial waiting room with the defendant or his family and friends.

7. The victim who has lost valuable property to an accused, may lose it again for long periods of time to investigating agency, during the trial and sometimes in appeals, and many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

8. With these objectives in mind, the Bill proposes to:—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the central and state government do all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the accused; and

(3) to provide a model legislation for State and local Governments.

Hence, this Bill.

DR. AMEE YAJNIK

FINANCIAL MEMORANDUM

Clause 5 provides for formulation of guidelines which include publicity, education and awareness of protection of victim and witnesses. As the bill seeks to provide for the protection of victim and witnesses, its enactment is likely to result in expenditure by the government from the Consolidated Fund of India. Clause 6 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill.

It cannot be estimated at this stage as how much expenditure will be incurred as of now but it is estimated that a recurring expenditure of rupees five hundred crore will be spent.

A non-recurring expenditure of rupees hundred crore will also be spent.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of this Bill empowers the Government to make rules for carrying out the provisions of this Bill. The rules will relate to matters of details only. Therefore, the delegation of legislative power is of a normal.

III

BILL NO. X OF 2020

A Bill further to amend the Code of Criminal Procedure 1973.

BE it enacted by Parliament in the Seventy first Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2020.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 2.

2. In section 2 of the Code of Criminal Procedure, 1973, (hereinafter referred to as the principal Act) after clause (i), the following clause shall be inserted, namely,—

"(ia) "kin of deceased victim" means closest living family members of a deceased victim, and includes the mother, father, brother, sister, son, daughter and spouse of such victim."

3. In section 173 of the principal Act, in sub-section (2), in clause (i) after sub-clause (h), the following sub-clause shall be inserted, namely:—

Amendment of
section 173.

"(i) whether the Victim Impact Statement of the kin of the deceased victim in the form prescribed as per Schedule III of the Act has been attached, where the investigation relates to a deceased victim:

Provided that at least one Victim Impact Statement shall be recorded as part of the report wherever applicable."

4. In section 235 of the principal Act, after sub-section (2) the following sub-section shall be inserted, namely:—

Amendment of
section 235.

"(3) If the accused is convicted in a case where the victim is deceased as a consequence of the offence, the Judge shall, hear the kin of the deceased victim on the question of sentence, have due regard to the Victim Impact Statement submitted under sub-section (2) of section 173, and then pass the sentence according to law.

5. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely,—

Insertion of
Third Schedule.

"THE THIRD SCHEDULE

[see section 173 (2)(i)]

Format of the Victim Impact Statement

VICTIM IMPACT STATEMENT

I. Victim Information

Name:

Phone Number/Contact Information:

Address:

Date of Birth:

Relation to the deceased victim:

II. Crime Information

Nature of the Offence:

What was filed:

☐ FIR

☐ Complaint

Description of

Offender/Offenders.....
.....

III. Emotional Impact

(Description of how the crime has emotionally affected you or those around you and any direct physical/mental consequence)

.....
.....
.....
.....

IV. Financial Impact

(Description of expenses personally borne or losses suffered as a result of the crime)

.....
.....
.....

Nature of Losses:

Amount:

V. Sentencing Information

(Description of the sentence that should be awarded to the offender)

.....
.....

VI. Other Comments, if any

.....
.....

”

STATEMENT OF OBJECTS AND REASONS

In the Indian Criminal Justice System, the State deals directly with the prosecution of the accused. At the same time, the Code of Criminal Procedure, 1973, guarantees to the accused many procedural rights to safeguard against abuse of power by the prosecution or judiciary. In doing so, the criminal justice system of India has side-lined the victims of the crime. This is particularly detrimental in the case of a deceased primary victim. The kin of the deceased also suffers mental trauma, emotional injury and economic loss as a result of the criminal act. It is therefore necessary that Indian Criminal Law also addresses these issues.

The formal procedures in such cases should not only be expeditious, but also fair and accessible to the secondary victims, or the kin of the deceased. The views and concerns of the victims must be presented and considered at the appropriate stages of the trial.

This Bill seeks to increase the accessibility of the justice system for such victims through the introduction of a Victim Impact Statement which becomes a part of the police report and is also considered by the Judge at the time of sentencing the accused. The Statement allows the victim's kin to openly narrate the effect of the crime on them and enumerate the emotional, psychological, and financial consequences of their loss. The statement is intended to identify the totality of the impact that a crime has on a victim.

Lastly, the Bill also mandates the Judge to hear the kin of the deceased victim in such cases, just as the accused is heard, prior to sentencing.

This Bill seeks to achieve the above mentioned objective.

DR. AMAR PATNAIK

IV

BILL NO. VIII OF 2020

A Bill to define the offences relating to incest and sexual abuse of females in family and prescribe the special procedure for punishment for the offences relating to incest and sexual abuse of females in family and matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Incest Offences and Sexual Abuse of females in Family (Prevention) Act, 2020.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'appropriate Government' means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) 'child' means any female below the age of 12 years;

(c) 'family member' means grand-mother, mother, daughter, sister, sister-in-law and daughter-in-law;

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'sexual abuse' includes sexual remarks, lewd gestures, inappropriate physical contact, touching and patting, molestation and displaying pornographic material to a family member;

(f) words and expressions used herein but not defined and defined in the Indian Penal Code, 1860 or Code of Criminal Procedure, 1973 shall have the same meanings respectively assigned to them in those laws.

45 of 1860.
1 of 1974.

3. Any person who has sexually intercourse with his family member or attempts to have sexual intercourse with such family member shall be guilty of the offence of incest and shall be punished as per the provisions of this Act.

Incest
Offences.

4. Any person who sexually abuse any of his family member shall be guilty of the offence of sexual abuse and shall be punished as per the provisions of this Act.

Sexual abuse
of family
member.

Explanation—For the purposes of sections 3 and 4, the consent of the family member shall not be available as defence to the accused.

5. Whoever is found guilty of offence under:

Penalty.

(i) section 3, shall be punished with rigorous imprisonment for a term for life and shall also be liable to fine:

Provided that if the victim is a child, offender shall be punished with death.

(ii) section 4, shall be punished with rigorous imprisonment for a term of five years which may extend upto seven years and shall also be liable to fine.

6. Notwithstanding anything contained in any other law, for the time being in force, in the trial under this Act, the burden of proof as to the innocence shall be on the accused and the victim shall have the right to lead evidence in rebuttal.

Burden of
proof.

7. The proceedings under this Act, shall be tried by Special Courts by a woman magistrate and the Court shall follow such procedure as may be determined by it in consultation with District Judge.

Special Court.

1 of 1976.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable and non-bailable.

Offences to be
cognizable and
non-bailable.

1 of 1974.

9. Save as provided under this Act, the provisions of the Code of Criminal Procedure, 1973, shall be applicable to the trial under this Act.

Provisions of
the Code of
Criminal
Procedure to
be applied.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force relating to incest and sexual abuse.

Act to have
overriding
effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Incest and sexual abuse of family members is deviant behaviour. Every day the news of incestuous relations and sexual abuse of females in the family is heard and read about in the media. This kind of gender-based violence threatens the wellbeing, rights and dignity of women.

The society is in a state of denial that incest and sexual abuse in the family exists. Victims are often reluctant to report incest or sexual abuse by a family member as the offender in most of the cases is a close family member. This problem is made worse by the fact that there is no law adequate to prosecute such criminals. There is a complete absence of any support system outside the family to help the victims. The problem gets worse by the fact that family in our Indian system is considered sacred, and any abuse that happens, is met with complete disbelief. As of today, there is no law on offenses relating to incest and sexual abuse within the family in India.

In many developed countries, incest is considered a crime. The United Kingdom has a law on it since 1908, which provides punishment for fourteen years and many other countries have laws on incest and sexual abuse in the family. In the United States also a separate law is there.

There is a consistent demand for a definite law on incest and sexual abuse in the family for quite some time. It is, therefore, extremely imperative and crucial that a separate and strict law should be enacted to counter this kind of gender violence in India.

Hence this Bill.

DR. SASMIT PATRA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules with relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

V

BILL NO. XII OF 2020

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-first year of the Republic of India as follows:—

Short title and
Commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2020.

(2) it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of
article 331.

2. For article 331 of the Constitution of India, the following article shall be substituted, namely:—

Representation
of the
transgender
community in
the House of
the People

"331. Notwithstanding anything in article 81, the President shall, if he is of the opinion that the transgender community is not adequately represented in the House of the People, nominate not more than two members of that community of the House of People."

3. For article 333 of the Constitution of India, the following article shall be substituted, namely:—

Substitutes of
article 333.

"**333.** Notwithstanding anything given under article 170, the Governor of a State shall, if he is of the opinion that the transgender community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of the that community to the Assembly."

Representation
of the
transgender
community in
the Legislative
Assembly of
the State.

STATEMENT OF OBJECTS AND REASONS

The transgenders face various forms of discrimination and trauma in our society. Since the colonial rule, the eunuchs have been labelled as cross-dressers, beggars and unnatural prostitutes. They are treated as outcasts right from birth. They have to beg on the streets for their living. People try to avoid them whenever they see them. We ourselves have rarely seen them employed in the public sectors. They also have to live at a separate place away from the society. Due to the social stigma and no protection to them, the Transgender Persons (Protection of Rights) Act, 2019 was recently passed by the Parliament. The Act gives recognition to the community as 'third gender' and provides protection against various forms of discrimination.

While the Act is a welcome move, and protects the community from discrimination, the transgender community has not got representation in Parliament. In the Census 2011, the transgender population was calculated to be 6 lakhs. Therefore, it becomes more significant for them to have a representative in the Parliament. In *National Legal Services Authority v. Union of India and others* 1 (2014) 5 SCC 438, the Supreme Court had recognized the community to be from the economically and socially backward class. For the transgender persons, discrimination is not based on religion, it is more about what they are born with and considering their sexual practices as 'contamination' and 'filth'. The Scheduled Castes and Scheduled Tribes communities have reservation of seats, therefore there should be a similar provision for the transgender community also.

In such a scenario, if they get two seats reserved, this would help them in voicing their opinions easily because when the Transgender Person (Protection of Rights) Act, 2019 was passed, there was no one from their community who could voice their opinion or share their plight in the Parliament. Furthermore, since independence, there has not been a single transgender Member of Parliament or Member of Legislative Assembly of any State. Since the Parliament in the winter session of 2019 discontinued the reservation of two seats for the Anglo-Indians, those two seats can now be reserved for the transgenders. In the State of Odisha, Aishwarya Rutuparna Pradhan has become the first openly transgender civil servant. In order to facilitate more people to embrace their identity and to feel safe about accepting who they are, we can begin with reserving seats for them in the Parliament.

Thus, while there is a demand from the transgender community for reservation in the public sphere, the call for reservation of two seats for them in the Parliament should also be pursued. The Transgender Persons (Protection of Rights) Act, 2019 ensures protection for the transgenders in the society, and this Bill shall ensure their involvement in policies framed for their own welfare and the decisions made for the country.

Hence, this Bill.

DR. SASMIT PATRA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend article 331 of the Constitution, with a view to provide representation of transgender community in the House of the People. Article 106 of the Constitution provides that the members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law.

Similarly, clause 3 of the Bill seeks to amend article 333 of the Constitution, with a view to provide representation of transgender community in the Legislative Assemblies. Article 195 of the Constitution provides that the members of either Legislative Assembly or Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by Legislature of the State.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible to quantify the exact amount required from the Consolidated Fund of India at this stage.

No non-recurring expenditure is likely to be involved.

VI

BILL NO. XIV OF 2020

A Bill to provide for compulsory third language education from primary to senior secondary level in all the schools throughout the country, to make it imperative for each student to study a third language other than Hindi, English or the student's mother tongue from one of the languages mentioned in the Eighth Schedule to the Constitution and for making it obligatory for the Central and State Governments to provide requisite infrastructure for the purpose and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Third Language Act, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of the State, and in other cases the Central Government;

(b) "language infrastructure" means requisite resources for teacher's training, appointment of teachers, staff etc., and requisite environment as are necessary in the school; and

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "school" includes a Government school, a Government aided school or a private school which imparts education;

(e) "third language" means one of the languages mentioned in the Eighth Schedule to the Constitution, but does not include Hindi, English and the mother tongue.

3. (1) The Central Government shall, as soon as may be, but not later than one year of the commencement of the Act, formulate a national policy for providing third language education in all schools of the country and ensure requisite language infrastructure in all such schools.

National policy for third language education.

(2) The national policy referred to in sub-section (1) shall provide for,—

(i) **including third language education for all the students as part of their syllabus from primary to senior secondary level in all the schools;**

(ii) **encouraging students to learn a third language, thereby introducing rich literature, new culture and tradition among the schools students;**

(iii) **ensuring the availability of third language teaches in all the schools;**

(iv) **releasing adequate funds for infrastructure development for teaching third language in all the schools;**

(v) **incorporating third language as compulsory subject in all the schools;**

(vi) **preparing standard and qualitative syllabus for third language as per the class thereof;**

(vii) **providing scholarship and stipend to those students whose grades or marks in third language has been outstanding;**

(viii) **giving weightage to marks obtained in third language for admission in colleges, universities, and institutions of national importance;**

(ix) **giving preference to the outstanding students in direct recruitment under the Central and State Government services; and**

(x) **such other provisions, as the Central Government may deem fit and necessary for carrying out the purposes of this Act.**

4. (1) It shall be the duty of the appropriate Government to implement the national policy formulated under section 3 of this Act.

Appropriate Government to implement national policy.

(2) The appropriate Government shall review the progress and quality of third language education being imparted by the schools from time to time, in such manner as may be prescribed.

5. Any school which violates the provisions of this Act shall be liable for withdrawal of recognition by the appropriate Government in such manner and with such conditions, as may be prescribed.

Penalty.

Central
Government to
provide funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds from time to time for carrying out the purposes of this Act.

Act to
Supplement
Other Laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to
make Rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

India is a unique nation of innumerable languages, culture and traditions. Total number of languages spoken in India is 780. These can be divided into several language families, the major ones being Indo-Aryan languages spoken by 78.05% of Indians. The Dravidian languages spoken by 19.64% of Indians and remaining 2.31% of the population belong to the Austroasiatic, Sino-Tibetan, Tai-Kadai and a few other minor language families and isolates.

2. This astounding number of languages hold the key to India's diversity. The truest unity of our nation will depend on the future generation's understanding, appreciation, preservation, protection and contribution to all the languages spoken in India. The nation will thrive when a Bengali, takes up Tamil as Third language and in times to come enriches the Tamil language, or a Punjabi writing poems in Bengali, a Marathi contributing to Telugu Literature. This will be the finest hour of India's Unity in Diversity, after all we are a remarkable Nation of Diversity.

The Bill seeks to achieve the above objectives.

SHRIMATI SHANTA CHHETRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for inclusion of third language education in all schools, infrastructure development and grant of scholarship and stipends for outstanding students in third language. Clause 6 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the actual expenditure at this juncture, but it is estimated that a sum of rupees one thousand crores may be involved as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two thousand crore may also be involved for creating various assets throughout the country.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

VII

BILL NO. XV OF 2020

A Bill to prevent increasing prevalence of suicide especially amongst the youth of the country with a community-based approach focusing on timely intervention and removal of stigma associated with reporting of mental illness and increasing lines of communication and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Suicide in Youth Act, 2020.

(2) It extends to whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Agency" means the Youth Mental Health Agency established under section 4;

(b) "annual report" means a report giving the details of developmental activities taken up over the year by the Agency and detailing about targets set and achieved;

(c) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(d) "counseling" means the application of mental health, psychological or human development principles through cognitive, effective, behavioural or systemic interventions and strategies to address wellness, personal growth, or career development as well as pathology;

(e) "educational institution" means —

(i) a middle or a secondary or a senior secondary level school imparting education to children, or any college owned by the appropriate Government, local authority or non-Governmental Organization, institute or university imparting higher education recognized by the Government or established under an Act of the Central Government or a State Government or run by a non-Governmental Organization, by whatever name such institution is called; and

(ii) schools and colleges managed by a private entity, society or a trust which impart education at secondary, senior secondary level and university level;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name but does not include domestic worker working at home;

(g) "mental health promotion" refers to activities that optimize the creation of individual, social and environmental conditions that enable optimal psychological and physiological development of a person;

(h) "media" includes print, electronic, online and digital platforms for communication;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry awarded by an university recognized by the University Grants Commission established under the University Grants Commission Act, 1956, or awarded or recognised by the National Board of Examinations and included in the National Medical Commission Act, 2019 and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in psychiatry, has been declared by the appropriate Government to be a psychiatrist for the purposes of this Act;

(k) "workplace" includes —

(i) office of any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) office of any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; and

(iii) hospitals or nursing homes.

(l) "youth" means a person who has attained the age of fifteen years but below the age of thirty years.

3. The Central Government shall, within six months of the commencement of this Act, by notification in the Official Gazette, formulate a comprehensive National Suicide Prevention Policy for prevention of suicides particularly by youth in the country.

Formulation of National Suicide Prevention Policy.

4. (1) The Central Government shall, as soon as may be, but within six months of the commencement of this Act, by notification in the Official Gazette, constitute an Agency to be known as the Youth Mental Health Agency to monitor, advise and supervise the provisions of this Act.

Constitution a Youth Mental Health Agency.

(2) The Agency shall consist of a Chairperson and ten other members who shall be appointed by the Central Government in such manner as may be prescribed.

(3) The head office of the Agency shall be at New Delhi.

(4) The Chairperson and members of the Agency shall hold office for a period of three years and shall be eligible for re-nomination as the case may be.

(5) The Agency shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(6) The Agency shall appoint such officers as it considers necessary with such designations, pay, allowances and other remuneration, from time to time as may be prescribed.

(7) The Agency shall comply with such direction as may, from time to time, be given to it by the Central Government.

5. The Agency shall,—

(a) develop the coordination and cooperation between concerned Ministries of the appropriate Government and stakeholders based on the guidelines of the National Suicide Prevention Policy formulated under section 3;

Functions of the Agency.

(b) compile and disseminate knowledge and guidance in collaboration with relevant agencies and stakeholders;

(c) strengthen knowledge-building and develop new knowledge in collaboration with agencies and relevant stakeholders and provide support to such development work;

(d) develop monitoring of the suicide preventive activities in collaboration with relevant agencies and stakeholders; and

(e) publish annual reports on the development of the area based on its role as a coordinating agency.

6. The appropriate Government shall ensure that Counselling Centres consisting of professionally trained counsellors are set up in every State to provide services to students, research scholars and faculties including non-teaching staff in such manner as may be prescribed.

Setting up of Counselling Centres.

Constitution of Mental Health Committees in all educational institutions and work places.

7. The appropriate Government shall direct all educational institutions and workplaces to constitute a Mental Health Committee for carrying out the purposes of this Act.

Functions of the Mental Health Committee.

8. The Mental Health Committees constituted under section 7 shall,—

(a) undertake mental health promotion through creating awareness about mental health issues and stress management in the educational institution through regular talks, seminars, discussions on a routine basis;

(b) ensure that every educational institution set up a Counselling Cell where students, faculty, non-teaching staff and employees including faculty members may access a professionally trained psychological counsellor free of cost in case of any mental distress.

(c) ensure that there is at least one psychiatrist to provide mental healthcare counselling in every Counselling cell; and

(d) submit an annual report stating the year-round activities undertaken by it to the Agency.

Mental Healthcare Counselling in Government Schools.

9. (1) The appropriate Government shall provide mental healthcare counselling in every Government school in such manner as may be prescribed.

(2) The appropriate Government shall appoint adequate number of psychiatrists to provide mental healthcare counselling in Government schools in such manner, as may be prescribed.

Information dissemination and awareness building.

10. (1) The appropriate Government shall ensure that every educational institution and workplace disseminate and provide opportunities to discuss suicide prevention awareness information to all employees and students.

(2) The information dissemination and suicide prevention information under sub-section (1) shall include but not limited to—

(a) providing information on all crises intervention tools such as national and local helpline numbers, self-help groups, availability of psychologists; and

(b) providing information about depression and suicide prevention resources available to students.

(3) The information provided to students under sub-section (2) shall pertain to mental health services and other support services, including student-run organizations for individuals at risk of or affected by tendencies of suicide.

Mandatory suicide preventive training in educational institutions and workplaces.

11. (1) The appropriate Government shall ensure that teaching and non-teaching staff in educational institutions undergo training focused on measures to be taken for prevention of suicide, identify possible signs and patterns of depression, suicide and self-harm.

(2) The appropriate Government shall ensure that all employees at workplaces undergo training for taking preventive measures and checking tendencies of suicide among their family members and colleagues.

(3) The training under sub-section (1) and (2) shall be undertaken by experienced psychiatrists, counsellors and medical practitioners at least once a year.

- 12. The appropriate Government shall set up a toll-free 24/7 National Suicide Prevention Lifeline Number, in such manner as may be prescribed.** Creation of a toll-free National suicide prevention lifeline number.
- 13. The appropriate Government shall take necessary measures to ensure—**
- (a) restriction on access to information on the internet and other sources for availing unauthorized psychological services;
 - (b) promotion of methods to check tendencies of suicide and self-harm and prevention of indulging in online games that endorse harmful behaviour;
 - (c) development of a system of alert and restriction on online sites that endorse harmful behaviour such as self-harm; and
 - (d) improve parental control on online sites that advertise content which actively encourages or glorifies suicides or self-harm.
- Appropriate Government to take measures to curb spread of harmful online material.
- 14. The appropriate Government shall take measures to ensure that media reporting of mental health issues is carried out in an appropriate manner with caution.** Media reporting on Mental Health issues.
- 15. The appropriate Government shall take all measures to ensure that,—**
- (a) the provisions of this Act are given wide publicity through public media including television, radio, print and online media at regular intervals;** Creating Awareness about mental health illness.
 - (b) the welfare schemes are planned, designed, funded and implemented in an effective manner to reduce stigma associated with mental illness; and
 - (c) the appropriate Government officials including police officers and other officers of the appropriate Government are given periodic sensitization and awareness training on the issues under this Act.
- 16. The Central Government shall, after due appropriation made by Parliament by Law in this behalf, provide adequate funds for the effective implementation of the provisions of the Act.** Central Government to provide adequate funds.
- 17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:** Power to remove difficulties.
- Provided that no such order shall be made after expiry of two years from the date of commencement of this act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
- 18. The Provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.** Act not in derogation of any other law.
- 19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.** Power to make rules.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have affect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Suicide is the second leading cause of death among fifteen to twenty-nine years old youth globally. Albeit, it is often cited as the most preventable form of death. According to data from the National Health Profile, 2018, the rates of suicide in India have increased in the last ten years. The internationally acclaimed medical journal Lancet has reported that in the year 2016 alone, an estimated 230,300 Indians committed suicide, a forty per cent. increase from the year 1990. Further, India accounted for thirty per cent, of all suicides reported globally for women and twenty-six per cent. for men.

At risk for suicide are generally the adolescents and young adults. According to National Mental Health Survey 2016, nearly 9.8 million of young Indians aged between 13—17 years are in need of active interventions of mental healthcare due to some form of mental disorder. The student suicide rate in the country has also seen a rise in the last three years. Stigma associated with reporting of mental health disorders may mean that the number is much higher.

In a technologically saturated world, there is a plethora of harmful content that can influence young minds. The age bracket has additional pressures to excel in schools and workplaces. Additionally, hormonal and bodily changes in adolescents can further put pressure on the young minds. Shift towards nuclear family structures often result in reduction of interaction time with parents and family members. While acknowledging that suicide is a complex phenomenon that occurs due to a multitude of factors, rather than a specific cause, timely intervention can save millions of lives. The first step in reduction of suicide in the country is through reducing the stigma attached to mental health issues. Stigma contributes to the huge burden of mental morbidity, being a road-block to treatment seeking. A community-based response has been recommended by the World Health Organization as a way to open lines of communications and reduce stigma. The school becomes an important place of intervention as adolescents and young adults spend a majority of their time there. Suicide prevention training for faculty and teachers can help in early identification of signs of mental distress.

The high suicide rate in India warrant a swift and serious policy response. This mental health intervention may help to provide array of hope towards a dignified life for millions of adolescent and young adults.

Hence, this Bill.

AMAR SHANKAR SABLE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall establish a Youth Mental Health Agency. Clause 6 provides that the appropriate Government shall establish counselling centres in every State. Clause 7 provides that the Educational institutions and workplaces shall establish Mental Health Committees. Clause 8 provides for the functions of the Mental Health Committee. Clause 9 provides for mental healthcare counselling in every Government school. It also provides for appointment of adequate number of psychiatrists. Clause 12 provides that the appropriate Government shall create a National Suicide Prevention toll-free help-line number. Clause 15 provides for wide publicity through public media including television, radio, print and online media at regular intervals and clause 16 provides for the Central Government to provide adequate funds for effective implementation of the provisions of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

VIII

BILL NO. XI OF 2020

A Bill to provide for the establishment of a Board for overall development of economically backward areas of the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Backward Areas Development Board Act, 2020.

Short title
and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "backward area" means an economically backward region of the country as the Central Government may from time to time, declare;

(b) "Board" means the Backward Area Development Board constituted under section 4;

(c) "prescribed" means prescribed by rules made under this Act.

Identification
of backward
areas.

3. The Central Government shall, by notification in the Official Gazette, within one year of the commencement of the Act, declare such areas of the country as backward areas which in the opinion of the Central Government are economically backward.

Backward
Areas
Development
Board.

4. (1) The Central Government shall, by notification in the Official Gazette, establish a Board to be called the Backward Areas Development Board for carrying out the purposes of this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at Pune and Board may, with the previous approval of the Central Government, establish offices at other places in country.

Composition
of the Board.

5. (1) The Board shall consist of the following members, namely:—

(a) the Vice-Chairperson of the Niti-Aayog, *ex-officio* shall be *ex-officio* chairperson;

(b) a Vice-Chairperson to be appointed by the Central Government;

(c) six Members of Parliament from the Council of States to be elected by the Members of the Council who belong to the backward areas, from amongst themselves;

(d) ten members to be appointed by the Central Government to represent respectively:—

(i) the Niti Ayog (other than the Chairperson of the Board);

(ii) the Ministry of Agriculture and Farmers Welfare;

(iii) the Ministry of Commerce and Industry;

(iv) the Ministry of Finance;

(v) the Ministry of Railways;

(vi) the Ministry of Communications;

(vii) the Ministry of Human Resource Development;

(viii) the Ministry of Health and Family Welfare;

(ix) the Ministry of Jal Shakti; and

(x) the Ministry of Road Transport and Highways.

(e) four members to be appointed by the Central Government, who, in the opinion of that Government are experts in various fields of economic development.

(2) The Board shall appoint such number of officers and employees as may be necessary for the efficient performance of its functions.

(3) The salary and allowances payable to and the other terms and conditions of service of the Vice-Chairperson, members, officers and employees of the Board shall be such as may be prescribed.

(4) The Board shall meet every month to review its functions and to establish coordination between various Ministries.

Functions of
the Board.

6. (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the all-around development of the backward areas of the country.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall take measures for the development, particularly, of railways, roads, posts and telegraphs and other means of communications, agriculture and irrigation, industries, banking, drinking water, power, forests, live-stock, health and family welfare, education, vocational training and tourism in the backward areas of the country.

(3) the Board shall set up such industries in the backward areas as it may determine.

- 7.** The Central Government shall provide from time to time, after due appropriation made by Parliament by law in this behalf, adequate funds for—
- (a) development works undertaken by the Board; and
- (b) administrative expenses of the Board.
- 8.** The Board shall have a fund to be called the Development Fund to which shall be credited all receipts from the Central Government for the purposes of development of the backward areas and all payments by the Board towards development expenditure shall be made therefrom.
- 9.** The Board shall also have a fund to be called the Administration Fund to which shall be credited all receipts from the Central Government for the purposes of administration of the Board and all administrative expenses shall be met therefrom.
- 10.** (1) The Board shall submit every year a report, in such form as may be prescribed, of its development activities in the backward areas to the Central Government.
- (2) the Central Government shall cause the report to be laid before each House of Parliament, as soon as may be, after its receipt.
- 11.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be made without prejudice to the validity of anything previously done under the rule.
- Central Government to provide funds.
- Development fund.
- Administration fund.
- Annual Report.
- Powers to make rules.

STATEMENT OF OBJECTS AND REASONS

With the aim to reduce and remove economic disparities between different regions of the country, our country launched the planned economic development programme for accelerated development of backward areas, which is the key for overall development of the nation. But, even after seventy one years of independence, the economic disparities among regions have not only persisted but have also increased. Therefore, attention is required to develop the backward areas.

For the accelerated development of the backward areas of the country with the rest of the country, the strategy should be to evolve an integrated development approach for identified backward areas. In the drought-prone areas which have a predominance of small and marginal farmers, area based programmes which envisage a flow of the necessary inputs in the form of a package to enable accelerated economic development should be implemented. In addition, a programme of giving incentives to enable accelerated industrialization of identified backward areas should be implemented. It should be ensured that infrastructural facilities like power, water supply and transport are steadily developed and made available to areas which are at present lagging behind industrially or where there is greater need for providing opportunities for employment. In order to achieve these objectives, a Board, though under the overall control of the Central Government, should be established which would be responsible for planning and implementation of area based package programme in coordination with the Niti Aayog and the State Governments. Further, there is a need to ensure that the elected representatives from the identified backward districts participate in the development process and share their experiences and inputs from the local people to enhance the performance of the Board.

The Bill seeks to achieve the above objectives.

AMAR SHANKAR SABLE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Backward Areas Development Board. Clause 5 provides composition of the Board besides appointment of Vice-Chairperson and four members who are experts in various fields of economic development, among others. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees one crore from the Consolidated Fund of India on account of administrative expenses. So far as the development expenditure is concerned, that will form part of the annual expenditure on development plans of the country as a whole, and the development funds shall be made available to the Board after due appropriation by Parliament. An estimate of such expenditure is not possible at this stage. However, a recurring expenditure of about rupees ten thousand crore would be involved.

A non-recurring expenditure of about rupees fifty crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will provide for matters of detail only, the delegation of legislative power is of a normal character.

IX

BILL NO. XVII OF 2020

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2020.

(2) It shall come into force at once.

Amendment of
section 326A.

2. In the Indian Penal Code, 1860 (hereinafter referred to as the Code), in section 326A, 45 of 1860.
for the words "shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine", the words "shall be punished with death or rigorous imprisonment for life, and with fine which shall not exceed rupees fifteen lakh".

Amendment of
section 326B.

3. In the Code, in section 326B, for the words "shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine which shall not exceed rupees five lakh".

STATEMENT OF OBJECTS AND REASONS

Acid attacks are becoming a growing phenomena which has a specific gender dimension in India. Laxmi's case is an example of what normally occurs in acid attack cases. The acid throwing is an extremely violent crime by which the perpetrator of the crime seeks to inflict severe physical and mental suffering on the victims. It is often motivated by deep seated jealousy or feelings of revenge against women. An acid attack has long lasting consequences on the life of the victim who faces a perpetual torture, permanent damage and other problems for rest of her life. Victims normally feel worthless, afraid and mortified and become social outcast because of their appearance.

Until 2013, there was no clear mechanism to ascertain the number of cases involving acid attacks since the Indian Penal Code did not recognise it as a separate offence. The offence of acid attack was tried under various sections of the Indian Penal Code and no estimates of figures of such attacks were available. The Criminal Law (Amendment) Act, 2013 inserted new sections 326A and 326B in the Indian Penal Code and made specific offences of grievous hurt by use of acid and throwing or attempting to throw acid etc.

It is contended that even if the victims are willing to pursue a normal life, there is no guarantee that society itself will treat them as normal human beings given their appearance and disability after an attack. Therefore, the penalties proposed in the Indian Penal Code are insufficient and need amendments for more rigorously punishing the perpetrators of these attacks and for monetary and economic rehabilitation of the victim of the attack.

The Bill proposes to enhance the quantum of penalty for acid attacks under sections 326A and 326B of the Indian Penal Code. It is expected that such stringent measures will curb acid attacks on women.

Hence this Bill.

MS. SAROJ PANDEY

X

BILL NO. XVIII OF 2020

A Bill to provide for Public Health and for prevention, control and management of epidemics and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Public Health (Prevention, Control and Management of Epidemics) Act, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "bio-hazardous material" means any infectious agent or hazardous biological material that presents a risk of potential risk to the health of humans, animals, plants or environment;

(b) "Central Government" means the Ministry or Department of the Government of India having administrative control of public health management;

(c) "clinical establishment" includes,—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities with beds requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine;

(ii) a place established as an independent entity or part of an establishment as defined in c (i) above in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, bio-chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipments, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not, and shall include a clinical establishment owned, controlled or managed by—

(a) the Government or a department of the Government;

(b) a trust, whether public or private;

(c) a corporation (including a society) registered under a Central, or State Act, whether or not owned by the Government;

(d) a local authority; and

(e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces;

(d) "decontamination" means a procedure whereby health measures are taken to eliminate an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;

(e) "deratting" means the procedure whereby health measures are taken to control or kill rodent vectors of human disease present in baggage, cargo, containers, conveyances, facilities, goods and postal parcels at the point of entry;

(f) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(g) "disinfection" means the procedure whereby health measures are taken to control or kill infectious agents on a human or animal body surface or in or on baggage, cargo, containers, conveyances, goods and postal parcels by direct exposure to chemical or physical agents;

(h) "district" means administrative area as recognized by the revenue department of a State or Union Territory Government for the purpose of revenue administration and law and order purposes which is headed by a District Collector or a Deputy Commissioner;

(i) "district authority" means and includes the Deputy Commissioner or the District Collector or the District Magistrate or any other Revenue Officer or Executive Magistrate so empowered under the prevailing Revenue Law or the Code of Criminal Procedure, 1973 or as the case may be:

(j) "drug" includes—

(i) preparations for mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(ii) such substances, other than food, intended to affect the structure or any function of human body or intended to be used for the destruction of insects which cause disease in human beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette;

(iii) all substances intended for use as components of a drug including empty gelatin capsules;

(iv) such devices intended for internal or external use in the diagnosis, treatment, mitigation or prevention of disease or disorder in human beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette; and

(v) any new drug for which permission has been granted by the Central Licence Approving Authority under the Drugs and Cosmetics Rules, 1945.

(k) "epidemic" means the occurrence in a community or region of cases of an illness, specific health related behavior, or other health related events clearly in excess of normal expectancy;

(l) "epidemic prone disease" means a disease as listed in the Schedule of this Act as may be notified by the Central Government from time to time;

(m) "ground crossing" means a point of land entry into India including one utilized by road vehicles and trains as per Land Port Authority of India;

(n) "isolation" means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination;

(o) "local area" means the area, within which a local authority exercises its jurisdiction;

(p) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or body of port commissioner or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specific local area;

(q) "notification" means a notification published in the Official Gazette;

(r) "outbreak" means epidemic limited to a localized increase in the incidence of a disease;

(s) "point of entry" means a passage for international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels as well as agencies and areas providing services to them on entry or exit;

(t) "premises" means buildings, non-constructed area and any land;

(u) "prescribed" means prescribed by rules made under this Act;

(v) "public health emergency" means any sudden state of danger to public health including extension or spread of any infectious or contagious disease or pests affecting humans, animals or plants, occurrence of or threat of dangerous epidemic disease, epidemic prone disease, or potential public health emergency requiring immediate action for its prevention, control and management which cannot be dealt with by any law other than this Act;

(w) "public health emergency of international concern" means an extraordinary event which is determined, as provided in International Health Regulations (IHR) of World Health Organization (WHO);

(x) "public health emergency of national concern" means a public health emergency as declared or notified by the Central Government from time to time;

(y) "public health service" means services for the prevention and treatment of diseases and promotion of health and includes environmental sanitation, immunization and any other services provided under this act and establishment and maintenance of any institution for the purpose of any such a services;

(z) "public health establishment" means an establishment maintained for the purpose of public health services, including any such establishment as notified by the Central or the State Government from time to time for any purpose of this Act;

(aa) "quarantine" means the restriction of activities or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination;

(bb) "regulation" means regulations as specified under this Act;

(cc) "reservoir" means an animal, plant or substance in which an infectious agent normally lives and whose presence may constitute a public health risk;

(dd) "Schedule" means a schedule included in this Act;

(ee) "social distancing" is a public health practice designed to limit the spread of infection by ensuring sufficient physical distance between individuals;

(ff) "State Government" means the department of the State Government having administrative control of public health management and includes administrator of Union Territory appointed by the President under article 239 of the Constitution;

(gg) "Union Territory" shall mean any Union Territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that schedule;

(hh) "vector" means an insect or any living carrier that transports an infectious agent from an infected individual or its wastes to a susceptible individual or its food or immediate surroundings.

CHAPTER II

PUBLIC HEALTH MEASURES

3. If any State Government or administration of Union Territory or any district or local authority is of the opinion that a public health emergency has arisen or is likely to arise, it may, by order—

Powers of the State Govt. or the Union Territory or District or Local Authority.

(a) require or empower any official of the district or local authority as the case may be, to take such measures and for such duration of time, to prevent, control and manage the public health emergency, as may be stated in such order;

(b) require any person or class of persons to observe such measures, for such duration of time, as may be stated in such order;

(c) prohibit any such activity as stated in the order, which is or is likely to be inimical to public health in any area under its jurisdiction;

(d) quarantine or restrict the movement of any person or class of persons or any object or class of objects suspected to be exposed to any such disease or exposed to any substance as may be stated in the order;

(e) isolate any person or class of persons infected or suffering from any such disease as may be stated in the order;

(f) conduct medical examination including laboratory examination of, and provide treatment, vaccination or other prophylaxis to any person or class of persons exposed to or suffering from or suspected to be suffering from any such disease as may be stated in the order;

(g) undertake deratting, disinfection, disinsection, decontamination, treatment, destruction or disposal of baggage, cargo, containers, conveyances, goods, postal parcels, human remains, animals, birds or biological substances to remove infection or contamination including vectors and reservoirs of infection;

(h) notwithstanding any other provisions in any other Act or statute, ban or regulate the purchase, transport, distribution, sale, supply, storage, as may be appropriate, of any drug or of any other material which contains hazardous or toxic substance;

(i) provide for the inspection and, if required, detention of any shipment, cargo or objects being transported, as also of any vehicle, vessel, ship, aircraft, train, or any other form of transport, leaving, arriving at or passing through any place including any port, airport, bus station or railway station, ground crossing as the case may be, in any area;

Powers of the
Central Govt.

4. When at any time the Central Government is satisfied that a public health emergency has arisen or is likely to arise in the country or any part thereof, it may—

(a) give such directions as it may deem necessary to,—

(i) the State Government or administration of Union Territory to implement the provisions of this Act and the State Government or administration of Union Territory shall comply with such directions;

(ii) the district or local authority to implement the provisions of this Act and the rule or order made thereunder and the district or local authority shall comply with such directions:

Provided that where it appears to the Central Government that it would be expedient and in public interest so to do, it may assume to itself any of the powers specified under section 3.

(b) order such measures as it may consider necessary to be observed by the general public or by any person or class of persons to prevent, control and manage the public health emergency or threat thereof;

(c) require or empower any person to take such measures as it may deem necessary to prevent, control and manage the public health emergency or threat thereof.

CHAPTER III

PENALTIES

Penalties.

5. (1) Any contravention due to negligence of any provisions of this Act or any rule or order made or issued thereunder shall be punishable with a fine not exceeding ten thousand rupees for the first contravention and not exceeding twenty five thousand for contravention on subsequent occasions.

(2) Any willful or intentional contravention of any provisions of this Act or any rule or order made or issued thereunder shall be a cognizable offence punishable with imprisonment which may extend upto a period of two years and with a fine which shall not exceed fifty thousand rupees for first contravention and not exceeding one lakh rupees for contravention on subsequent occasions.

CHAPTER IV

APPEAL

6. (1) Any person aggrieved by the order of the Central Government, the State Government or administration of Union Territory or district or local authority passed under section 3 or section 4 may appeal against the said order before such Appellate Authority as may be notified under this Act. Appeal.

(2) Unless the Appellate Authority holds in abeyance the order being appealed against, the pendency of such appeal, by itself shall not be a sufficient cause for non-implementation of the order issued by the Central Government or the State Government or administration of Union Territory or district or local authority appealed against.

CHAPTER V

MISCELLANEOUS

7. Any person authorized to take any action under this Act or any Order or Rule made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Certain persons deemed to be public servants.

45 of 1860.

8. For any decision taken or to be taken to implement the provisions of this Act any order or rule made thereunder, the decision of the State Government or administration of UT shall prevail over the decision of the district or local authority under its jurisdiction and the decision of Central Government shall prevail over the decision taken by the State or UT Govt. or distt. or local authority. Power to supersede.

9. (1) No court shall take cognizance of any offence under section 5 except with the previous sanction of such officer as may be prescribed. Cognizance of offence.

(2) Any offence under the Act either before or after the institution of prosecution may be compounded by such officer and on payment of such compounding amount as may be prescribed.

10. No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken in good faith.

11. The provisions of this Act shall have overriding effect over any provision in any other law for the time being in force. Act to have overriding effect.

12. (1) The Central Government may, by notification, amend the Schedule to this Act and the said Schedule shall, as from the date of such notification, be deemed to have been amended accordingly. Power to amend Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

13. (1) The Central Government shall by notification in the official Gazette make rules for carrying out the purposes of this Act: Power to make rules.

Provided that the State Governments may, with prior approval of the Central Government, make amendments thereto appropriate to circumstances of each State.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following namely:—

(a) the form and manner in which any report or return may be required to be furnished under such section (1) of section 3;

(b) the officer who shall grant the previous sanction under sub-section (1) of section 9;

(c) the officer who shall compound the offence and the compounding amount under sub-section (2) of section 9.

(3) Every rule made under this section be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making a modification in the rule or both Houses agree that the rule should not be made, the rule shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be under that rule.

Repeal and
savings.

14. (1) The Epidemic Diseases Act, 1897 is hereby repealed.

3 of 1897.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the aforesaid Act, shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

THE SCHEDULE

[See Section 2 (m)]

EPIDEMIC PRONE DISEASES

1. Anthrax.
2. Bird Flu (Avian Influenza).
3. Chickenpox.
4. Chikungunya fever.
5. Cholera.
6. Dengue fever/Dengue haemorrhagic fever (DHF).
7. Diphtheria.
8. Enteric fevers.
9. Epidemic dropsy.
10. Extensively drug resistant tuberculosis (SDR-TB)/Multidrug resistant TB (MDR-TB).
11. Food poisoning.
12. HIV/AIDS.
13. Influenza.
14. Japanese encephalitis.
15. Kala-azar.
16. Kyasanur forest disease.
17. Leptospirosis.
18. Creutzfeldt-Jakob disease (Mad Cow disease).
19. Malaria.
20. Measles.
21. Meningococcal Meningitis.
22. Nipah viral disease.
23. Plague.
24. Poliomyelitis.
25. Rabies.
26. Relapsing fever.
27. Severe Acute Respiratory Syndrome (SARS).
28. Smallpox.
29. Typhus.
30. Viral haemorrhagic fevers including Ebola.
31. Viral hepatitis.
32. Whooping cough.
33. Yellow fever.
34. Any public health emergency of international concern.
35. Any other epidemic disease of public health importance as may be notified.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to ensure preparedness for any epidemic diseases and to provide prevention and management in case of a public health emergency.

Even if medical counter measures are available, epidemic diseases remain a threat for majority of our population, either because of their rapidly evolving nature (e.g. influenza) or because equitable access to effective public health measures is difficult. There are many reasons for limited access to vaccines: production capacity does not meet the demand (e.g. yellow fever, pandemic influenza), explosive outbreaks exhaust the available vaccines (e.g. meningitis), or the absence of markets prevent access to the intervention in case of emergencies (e.g. oral cholera vaccine). In addition, in many affected countries, the weakness of the existing health care system prevents effective access to medical interventions (diagnostics and treatment).

This Bill provides for better preparedness for epidemic diseases.

Hence this Bill.

SANJAY SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules by notification in the Official Gazette, to carry out the provisions of the Bill. The rules to be made by the Government pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation is, therefore, normal in character.

DESH DEEPAK VERMA,
Secretary-General.

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